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COCHIN LEGISLATIVE COUNCIL PROCEEDINGS.

(OFFICIAL REPORT OF THE SECOND LEGISLATIVE SESSION OF THE FOURTH COCHIN LEGISLATIVE COUNCIL.)

Vol. IV — 1112.

COCHIN LEGISLATIVE COUNCIL.

Wednesday,

25th November, 1936.
10th Vrischigam, 1112.

The Council met in the Council Hall, Ernakulam, at Eleven of the Clock with the Hon'ble the President (Sir Shanmukham Chetty, K. C. I. E.) in the Chair.

Messrs. T. S. Balarama Ayyar, M. V. Cherian, Popatlal Goverdhan Lalan and M. Sivarama Menon were absent.

Questions and Answers.

Adjournment of sales—Resolution re.

51. Mr. A. V. Moothedan *(Chalakkudi).*—Will the Government be pleased to state what action has been taken on the resolution moved at the last Budget Session, regarding the adjournment of sales on payment of a percentage of the decretal amount?

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—A transcript of the discussion in the Legislative Council on the question was forwarded to the Chief Court for necessary action. The Chief Court has accordingly issued a circular to all the subordinate courts giving specific instructions to minimise the grievances of judgment-debtors taking into account the present economic depression.

Mr. A. V. Moothedan *(Chalakkudi).*—Is there any material difference between the circular now issued and the circular issued before?

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Mr. T. S. Narayana Ayyar *(Secretary to Government)*.—Yes. The circular now issued reads as follows:—

"It has come to the notice of the judges that there is apprehension on the part of the litigant public, that the directions contained in Civil Circular No. 2/09 are not being followed by some of the subordinate courts, in the spirit in which that circular was conceived. If this is true, it is extremely regrettable. Three matters of grievance were brought to the prominent notice of the Government by the non-official members during the last budget session of the Legislative Council. They are:—

(1) sales of immoveable proporties are not sometimes adjourned even if an appreciable portion of the decree-debt is paid into court;

(ii) the time granted for payment of decree-debts is often too short, and,

(iii) day-costs are awarded by courts as a matter of course and the amounts so allowed often weigh heavy upon decree-debtors.

Under the Civil Procedure Code, executing courts have very wide powers of discretion, and the above mentioned grievances are such as could be remedied by a proper and judicious exercise of those powers. Courts of law exist for administering real justice and the present economic depression is an element which the courts could and should take into account in exercising such discretion. A perusal of the proceedings of the Legislative Council regarding this matter will give an idea of the nature of the grievances of the litigant public. The Chief Court expects the subordinate judiciary to minimise those grievances as far as possible, confining themselves within the limits of law".

Mr. A. V. Moothedan *(Chalakkudi)*.—Am I to take it that no instructions have been given specifying the minimum percentage that would warrant an adjournment of sales by the Court?

Mr. T. S. Narayana Ayyar *(Secretary to Government)*.—It must depend upon the facts of each case, regard being had to the decretal amount, the conduct of the judgment debtor and other attendant circumstances.

Mr. K. M. Ibrahim *(Cranganur)*.—Sir, in the case of the circular, was it not observed by the Government Member that by this provision any small amount would have been sufficient for an adjournment of the proceedings?

Mr. T. S. Narayana Ayyar *(Secretary to Government)*.—The language of the old circular is this: "payment in court of some portion of the sale amount."

Mr. K. M. Ibrahim *(Cranganur)*.—Am I to take it that any amount would have been sufficient by the first circular?

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Mr. T. S. Narayana Ayyar *(Secretary to Government).*—As observed by me before, it is not possible to prescribe a minimum.

Mr. K. M. Ibrahim *(Cranganur).*—Am I right in thinking that payment of Rs. 5 would constitute a payment?

Mr. President.—In certain cases.

Mr. K. M. Ibrahim *(Cranganur).*—Do not the Government think, Sir, that it would be rather advisable to have some indication in the circular about the percentage that should be deposited?

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—In this matter, Government must take the opinion of the Hon'ble Chief Court as the last word on the subject.

Mr. K. M. Ibrahim *(Cranganur).*—In this connection of concessions to the indebted agriculturists was not a memorial presented during Makarom last signed by the majority of non-official members?

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—There was a Memorial requesting Government to extend the kuri proclamation.

Mr. K. M. Ibrahim *(Cranganur).*—I distinctly remember that there was another memorial to extend the Moratorium.

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—No such memorial is seen to have been received.

Mr. President.—It might have been received.

Mr. K. M. Ibrahim *(Cranganur).*—Is it not a point, Sir, which has to be answered at one moment's notice? Yesterday we had given a question.

Mr. President.—Is it quite possible it might have been given. But it is not possible for Government to remember such things.

Mr. K. M. Ibrahim *(Cranganur).*—Yesterday it was denied.

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—There was a specific question and a specific answer given yesterday.

Mr. President.—Now I find the tendency is becoming more frequent here that, especially during question time which is entirely intended to put questions, the Members are trying to

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test the capacity of the memory of the members instead of eliciting genuine information.

Mr. K. M. Ibrahim *(Cranganur).*—The Hon'ble President will kindly allow me to make a personal explanation of the matter. At this particular moment the very same question was put yesterday. It had about one month's notice. It was denied completely that such a memorial was given to the Diwan.

Mr. President.—Then it is for the Hon'ble Member to adduce evidence that the answer of the Government was wrong.

Mr. K. M. Ibrahim *(Cranganur).*—If the Government can admit now that such a memorial was received, we are satisfied.

Mr. K. M. Kunhi Moideen *(Kattur).*—I submitted the Memorial in person to the Diwan and the answer is that no memorial has been received.

Mr. President.—The course for the Hon'ble Member when he sees that an answer is wrong is to bring it to the notice of the Government.

Mr. K. M. Ibrahim *(Cranganur).*—Certainly, we are bringing it here now. Will the Government be pleased to kindly consider that aspect of the question at least in future?

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—What aspect and what question?

Mr. K. M. Ibrahim *(Cranganur)* —The request contained in that memorial.

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—It has already been considered.

Aerodrome—construction of.

52. Mr. E. Ikkanda Warriar *(Urakam).*— Will the Government be pleased to state:—

(a) whether they propose to construct an aerodrome in the State;

(b) if the answer is in the affirmative;

(i) the place where they propose to construct it;

and (ii) the approximate cost for same?

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